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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,064	11/21/2001	George Calcev	CML00019N	3765
22917	7590	08/26/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			SHAND, ROBERTA A	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,064

Applicant(s)

CALCEV ET AL.

Examiner

Roberta A. Shand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,13,16-18,20,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,13,16,17,22 and 23 is/are rejected.
- 7) ☒ Claim(s) 2,4,18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/21/01 3/8/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 recites the limitation "the CDMA network" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 6, 13, 16, 17, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezaiifar in view of Valkealahti (U.S. 2004/0242257 A1).

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6. Regarding claim 1, Rezaiifar teaches (fig. 2) in a CDMA network, a method for controlling a pilot of a cell, comprising: determining a transcoder loss (bit error rate) per frame within the cell; and computing a cell performance metric of the cell when the transcoder loss per frame is equal to greater than a threshold value (page 4, paragraphs 36-38); computing a cluster performance metric of a cell cluster associated with the cell when the transcoder loss per frame is equal to or greater than a threshold value of the cell cluster (fig. 4).

7. Rezaiifar does not teach conditionally decreasing the pilot power of the cell when the cell performance metric is less than the performance.

8. Valkealahti teaches (fig. 3) adjusting (adjusting reads on decreasing) the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

9. Regarding claims 6, 16 and 22, Rezaiifar does not teach increasing the pilot power of the cell when the cell performance metric is equal to or greater than the cluster performance.

10. Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

11. Regarding claim 13, Rezaiifar teaches (page 5, paragraphs 61-67) a CDMA network, comprising: a cell having a pilot power; means for determining a transcoder loss (bit error rate) per frame within the cell; and means for computing a cell performance metric of the cell (page 4,

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paragraphs 36-38); means for computing a cell cluster performance metric of the cell cluster (fig. 4).

12. Rezaiifar does not teach a means conditionally decreasing the pilot power of the cell when the cell performance metric is less than the performance.

13. Valkealahti teaches (fig. 3) means for adjusting (adjusting reads on decreasing) the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

14. Regarding claim 17, Rezaiifar teaches (fig. 2) a computer readable medium storing a computer program for controlling a pilot power of a cell within a network, comprising: computer readable code for determining a transcoder loss (bit error rate) per frame within the cell; and computer readable code for computing a cell performance metric (page 4, paragraphs 36-38); computer readable code for computing a cell cluster performance metric of the cell cluster (fig. 4).

15. Rezaiifar does not teach a computer readable code for conditionally decreasing the pilot power of the cell when the cell performance metric is less than the performance.

16. Valkealahti teaches (fig. 3) computer readable code for adjusting (adjusting reads on decreasing) the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

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17. Regarding claim 23, Rezaiifar teaches (fig. 2) a method of controlling pilot power of a cell within a network, comprising: computing a cell performance metric (page 5, paragraphs 61-67) of the cell; computing a cluster performance metric of a cell cluster (cells j to I) associated with the cell

18. Rezaiifar does not teach computing the pilot power based upon a computation of the cell performance metric, wherein the pilot power is decreased when the cell performance metric is less than the cluster performance metric.

19. Valkealahti teaches (fig. 3) adjusting (adjusting reads on decreasing) the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

Allowable Subject Matter

20. Claims 2, 4, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

21. Applicant's arguments filed May 5, 2005 have been fully considered but they are not persuasive. Applicant argues that Valkealahti does not teach decreasing the plot power of the cell when the cell performance metric is less than the cluster performance metric. As mention above, Valkealahti teaches adjusting the pilot power when the cell performance metric is less than the

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cluster performance metric. Adjusting the pilot power reads on decreasing the pilot power, because it involves lowering the pilot power, therefore decreasing the pilot power is inherent in adjusting the pilot power.


Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A Shand whose telephone number is 571-272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roberta A Shand
Examiner
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STEVEN NGUYEN
PRIMARY EXAMINER